

House File 541 - Introduced

HOUSE FILE 541

BY ISENHART

A BILL FOR

1 An Act relating to investigations of licensing boards.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 2C.9, subsection 4, Code 2019, is amended
2 to read as follows:

3 4. Request and receive from each agency assistance and
4 information as necessary in the performance of the duties of
5 the office. Notwithstanding [section 22.7](#) or [section 622.10](#),
6 pursuant to an investigation the ombudsman may examine any and
7 all records and documents of any agency unless its custodian
8 demonstrates that the examination would violate federal
9 law or result in the denial of federal funds to the agency.
10 Confidential documents provided to the ombudsman by other
11 agencies shall continue to maintain their confidential status.
12 The ombudsman is subject to the same policies and penalties
13 regarding the confidentiality of the document as an employee
14 of the agency. The ombudsman may enter and inspect premises
15 within any agency's control and may observe proceedings and
16 attend hearings, with the consent of the interested party,
17 including those held under a provision of confidentiality,
18 conducted by any agency unless the agency demonstrates that
19 the attendance or observation would violate federal law or
20 result in the denial of federal funds to that agency. ~~This~~
21 ~~subsection does not permit the examination of records or access~~
22 ~~to hearings and proceedings which are the work product of~~
23 ~~an attorney under [section 22.7](#), [subsection 4](#), or which are~~
24 ~~privileged communications under [section 622.10](#).~~

25 Sec. 2. Section 2C.21, Code 2019, is amended to read as
26 follows:

27 **2C.21 Witnesses.**

28 A person required by the ombudsman to provide information
29 shall be paid the same fees and travel allowances as are
30 extended to witnesses whose attendance has been required in
31 the district courts of this state. Officers and employees of
32 an agency shall not be entitled to such fees and allowances.
33 A person who, with or without service of compulsory process,
34 provides oral or documentary information requested by the
35 ombudsman shall ~~be accorded the same privileges and immunities~~

1 ~~as are extended to witnesses in the courts of this state, and~~
2 ~~shall also~~ be entitled to be accompanied and advised by counsel
3 while being questioned.

4 Sec. 3. Section 272C.3, subsection 1, paragraph d, Code
5 2019, is amended to read as follows:

6 d. Determine in any case whether an investigation, or
7 further investigation, or a disciplinary proceeding is
8 warranted. ~~Notwithstanding the provisions of chapter 17A,~~
9 ~~a determination by a licensing board that an investigation~~
10 ~~is not warranted or that an investigation should be closed~~
11 ~~without initiating a disciplinary proceeding is not subject to~~
12 ~~judicial review pursuant to section 17A.19.~~ Notwithstanding
13 any other provision of law, if a board determines that there
14 is no probable cause to believe that an asserted violation has
15 occurred, the complaint shall be returned to the complainant
16 with a statement specifying the reasons for rejection
17 sufficient to enable the complainant to review the agency's
18 determination.

19 Sec. 4. PROFESSIONAL LICENSING BOARD INVESTIGATION.

20 1. The ombudsman shall conduct a three-year investigation
21 of the complaint handling procedures of professional licensing
22 boards regulated under chapters 272 and 272C.

23 2. The ombudsman shall investigate and assess the
24 sufficiency of each professional licensing board's internal
25 processes for investigating, responding to, and ruling
26 on complaints filed against persons licensed, registered,
27 or certified by the board. Notwithstanding section 21.5,
28 subsection 5, paragraph "b", subparagraph (2), as part of
29 the investigation authorized pursuant to this section, the
30 ombudsman may review investigative files and closed session
31 records.

32 3. The ombudsman shall be reimbursed by each licensing
33 board, or by the department or agency that provides
34 administrative support to the licensing board, for the cost
35 of the investigation. The ombudsman shall submit quarterly

1 statements of costs for purposes of reimbursement.

2 4. The legislative council is requested to authorize the
3 ombudsman to hire one additional staff person for purposes of
4 the investigation.

5 5. By October 1, 2021, the ombudsman shall submit a report
6 to the general assembly documenting the findings of the study
7 and any related recommendations.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to investigations by professional
12 licensing boards. The bill grants the ombudsman access to
13 agency records, hearings, and proceedings that are the work
14 product of an attorney or are privileged communications. The
15 bill also strikes a provision granting witnesses providing
16 testimony to the ombudsman the same privileges and immunities
17 granted to witnesses in court.

18 The bill allows a board's determination that an
19 investigation of a complaint is not warranted or that an
20 investigation should be closed without disciplinary proceedings
21 to be subject to judicial review. The bill also requires a
22 board that determines that no probable cause exists for a
23 complaint to return the complaint to the complainant with a
24 statement specifying the reasons for rejection.

25 The bill also instructs the ombudsman to conduct a
26 three-year investigation of the complaint-handling procedures
27 of professional licensing boards regulated under Code chapters
28 272 and 272C. The review shall include an assessment of
29 the processes of investigating, responding to, and ruling
30 on complaints against regulated persons. The bill grants
31 access to investigative files and closed session records to
32 the ombudsman. The bill requires each licensing board or
33 department or agency staffing the board to reimburse the
34 ombudsman for the cost of the investigation. The bill requests
35 the legislative council to authorize the ombudsman to hire an

1 additional person to execute the investigations. The bill
2 requires the ombudsman to submit a report to the general
3 assembly by October 1, 2021.